

# Exhibit 1

**Exhibit 1**

BOPP, COLESON & BOSTROM  
1 South Sixth Street  
Terre Haute, Indiana 47807-3510  
(812) 232-2434

## **Sarah Troupis**

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**From:** "Sarah Troupis" <stroupis@bopplaw.com>  
**To:** "Pharris, James (ATG)" <JamesP@ATG.WA.GOV>  
**Sent:** Friday, August 28, 2009 10:56 AM  
**Attach:** Draft\_Stipulated\_Protective\_Order.pdf  
**Subject:** Doe v. Reed - Draft Protective Order for discussion

Mr. Pharris -

Attached is the draft stipulated protective order that I left you a voice mail message about this morning.

If you could give me a phone call today to discuss this, I would appreciate it. Thanks!

-Sarah Troupis-

Sarah Troupis  
Bopp, Coleson & Bostrom  
1 South 6th Street  
Terre Haute, Indiana 47807

Phone: 812-232-2434  
Fax: 812-235-3685  
E-mail: [stroupis@bopplaw.com](mailto:stroupis@bopplaw.com)

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8 **UNITED STATES DISTRICT COURT**  
9 **WESTERN DISTRICT OF WASHINGTON**  
10 **TACOMA DIVISION**

11 JOHN DOE #1, an individual, JOHN DOE #2,  
12 an individual, and PROTECT MARRIAGE  
WASHINGTON,

13 Plaintiffs,

14 vs.

15 SAM REED, in his official capacity as  
16 Secretary of State of Washington, BRENDA  
GALARZA, in her official capacity as Public  
17 Records Officer for the Secretary of State of  
Washington,

18 Defendants.

No. 3:09-CV-05456-BHS

**STIPULATION AND PROTECTIVE  
ORDER**

The Honorable Benjamin H. Settle

19  
20 Upon the consent of parties to this action, as evidenced by their signatures below, it is  
21 hereby ordered that:

22 **1.** The term “Documents” as used in this Order shall mean all written, recorded (including  
23 electronically recorded), or graphic matter whatsoever. Such materials shall include, but not be  
24 limited to: interrogatory answers; responses to requests for admissions; responses to requests for  
25 production of documents; documents produced or served by any party or non-party in this action,  
26 whether pursuant to any rule, subpoena, or agreement; deposition transcripts and exhibits,  
27 physical objects or things as may be appropriate for the implementation of the purposes of this  
28 Order; and any papers, including court papers, which quote from, summarize, or refer to any of

**Stipulation and Protective Order**  
**(No. 3:09-CV-05456-BHS)**

**1**

**BOPP, COLESON & BOSTROM**  
**1 South Sixth Street**  
**Terre Haute, Indiana 47807-3510**  
**(812) 232-2434**

1 the foregoing.

2       **2.** A producing entity may designate as “Confidential” any Document or portion thereof  
3 that contains or reflects trade secrets or other sensitive non-public information, including  
4 information for which the producing entity reasonably believe confidentiality is necessary to  
5 protect a party or person from embarrassment, oppression, undue burden or expense, threats,  
6 harassment, or reprisals (“Confidential Document”). An entire Document shall not be designated  
7 as “Confidential” if only a reasonably segregable portion thereof contains information that the  
8 producing entity reasonably believes should be kept confidential.

9       **3.** All Confidential Documents produced in the course of the proceedings herein, and all  
10 information derived therefrom—including but not limited to, extracts, summaries, memoranda,  
11 and correspondence quoting or containing information from Confidential  
12 Documents—(collectively “Confidential Information”) may be used only for the purpose of  
13 preparing for and conducting discovery and pre-trial proceedings, and for no other purpose. If a  
14 Document contains both Confidential Information and non-Confidential Information, this  
15 restriction shall apply only to the Confidential Information in the Confidential Document.

16       **4.** Except as otherwise provided in this Order, no person shall be permitted to have access  
17 to Confidential Information, nor shall any person be informed of the substance of the  
18 Confidential Information, by any person permitted to have access thereto, except as provided in  
19 this Order, or otherwise agreed upon by the entity producing such material, or by order of the  
20 Court.

21       **5.** Confidential Information shall not be disclosed or distributed to any person or entity  
22 other than the following:

23           **a.** the parties and the attorneys for the parties in this action (including their paralegals,  
24 clerical, and other assistants) who have a clear need therefore in connection with this action; and  
25 outside contractors hired to copy, image, index, sort, or otherwise manage the storage and  
26 retrieval of case materials;

27           **b.** persons retained by a party or outside counsel to serve as expert witnesses or  
28 otherwise to provide advice to counsel in connection with this action (referred to as

1 “consultants”), provided such persons have signed a declaration under penalty of perjury in the  
2 form annexed hereto attesting to the fact that they have read this Order and agree to be bound by  
3 its terms;

4 c. stenographers engaged to transcribe depositions conducted in this action; and

5 d. the Court and its support personnel.

6 6. If a Party files with the Court a document that quotes from or refers to a specific  
7 identifying information another party has designated as Confidential Information, that portion of  
8 the filed document shall be treated as Confidential Information. If a party files with the Court a  
9 document that summarizes or aggregates information another party has identified as Confidential  
10 Information, the filing party may seek written consent from the producing party or a ruling from  
11 the Court that the summary or discussion of aggregated information is not Confidential  
12 Information. Until there is such written consent or a Court Order, the summary or aggregated  
13 information shall be treated as Confidential Information.

14 7. During any deposition noticed in connection with this case, any counsel may indicate  
15 on the record that a question calls for confidential Information, or that an answer has disclosed  
16 Confidential Information. Such Information must be so designated during the deposition, in  
17 which case the transcript of the designated testimony shall be bound in a separate volume and  
18 marked “Confidential Information.” When such designation is made during a deposition, upon  
19 the request of counsel, all persons, except persons entitled to receive the Confidential  
20 Information pursuant to this Order, shall leave the room where the deposition is proceeding until  
21 completion of the answer or answers containing Confidential Information.

22 8. Persons described in paragraph five (5) above shall be restricted to using Confidential  
23 Information only for purposes directly related to this action and not for any other litigation,  
24 proceeding, business, commercial, competitive, personal, or other purpose. Photocopies of  
25 documents containing such information shall be made only to the extent necessary to facilitate  
26 the permitted use hereunder.

27 9. Confidential Information shall not be disclosed to any person or persons under  
28 subparagraph 5(b), unless and until such person has been shown this Protective Order and has

1 agreed in writing to be bound by its terms, by subscribing a document in the form of the  
2 “Acknowledgment” attached hereto as Appendix A. A copy of each executed Acknowledgment  
3 shall be kept by counsel for the party on behalf of which disclosure is made pursuant to  
4 paragraph 5 until thirty days after the termination of this action, including appeals.

5 **10.** All Confidential Information that is filed with the Court, and any pleadings, motions,  
6 exhibits, or other papers filed with the Court disclosing Confidential Information, shall be filed  
7 under seal and kept under seal until further order of the Court. The parties agree, where  
8 practicable, to designate only the confidential portions of filings with the Court to be filed under  
9 seal. The parties shall file, on the public ECF system, redacted versions of any pleadings,  
10 motions, exhibits, or other papers filed with the Court, removing any and all Confidential  
11 Information. Counsel shall also file, under seal, a reference list, containing all of the redacted  
12 Confidential Information. To facilitate compliance with this Order by the Clerk’s office, the  
13 reference list shall be contained in a sealed envelope bearing the designation “Confidential” on  
14 its front face. In addition, the envelope shall bear the caption of the case, shall contain a concise  
15 description of the document to which the reference list relates for docketing purposes that does  
16 not disclose the Confidential Information, and shall state thereon that it is filed under the terms  
17 of this Order.

18 **11.** Reference lists and any other Confidential Information filed under seal with the Court  
19 shall be served on each counsel of record at the same time as they are filed with the Court.  
20 Reference lists and any other Confidential Information filed under seal before the effective date  
21 of this Order shall be served on each counsel of record within three (3) days of the issuance of  
22 this Order.

23 **12.** This Order shall not preclude any party from seeking a ruling from the Court regarding  
24 the validity or propriety of any claim of confidentiality asserted by a producing entity. Provided,  
25 however:

26 **a.** In the event that the party to whom information is disclosed or produced objects to  
27 the designation by the producing entity of any document or discovery materials as Confidential,  
28 that party’s counsel shall advise counsel for the producing entity of the objection, in writing, and

1 identify the document or material with sufficient specificity to permit the other to identify it.

2       **b.** Within three (3) business days of receiving this written objection, the producing  
3 entity shall advise in writing, whether the Confidential designation will be removed. If the  
4 producing entity continues to assert the Confidential designation, the parties shall meet and  
5 confer at 2:00 PM eastern time on the second business day following service of the response to  
6 the objection to the designation, unless otherwise agreed by all counsel designated as Points of  
7 Contact.

8       **c.** If the appropriate designation cannot be resolved, then the dispute may be present  
9 to the Court by motion or otherwise. Any motion to remove a Confidential designation shall be  
10 served within three business days of the meet and confer, any opposition within three business  
11 days of service of the motion to compel, and any reply within two business days of service of  
12 opposition papers. During the pendency of any such dispute, the designated document or  
13 material shall continue to be treated as Confidential Information subject to the provisions of this  
14 Order.

15       **d.** If the briefing schedule or other timing considerations do not leave adequate time  
16 for a party to follow the steps outlined at (a) through (c), above, any party may proceed to Court  
17 after making an attempt to meet and confer with the producing party.

18       **13.** This Order shall govern the production and disclosure of Confidential Information by or  
19 on behalf of any party through the discovery and all pretrial processes. This Order is not  
20 intended to govern at trial. Should this matter proceed to trial, the parties shall meet and confer  
21 regarding use of Confidential Information during trial and file any proposed modifications to the  
22 Protective Order no later than @@.

23       **14.** Within sixty (60) days of the resolution of this action by settlement or final judgment,  
24 and the termination of any appeal therefrom, all Confidential Documents, and any copies thereof,  
25 shall be promptly destroyed. The party to whom Confidential Information is disclosed shall  
26 certify in writing that all Confidential Documents have been destroyed. The termination of this  
27 litigation shall not relieve any person or party provided Confidential Information of his, her, or  
28 its obligations under this Order.

1       **15.** If Defendants, Defendants' counsel, or their employing agency are requested to disclose  
 2 any Confidential Information pursuant to the Public Records Act, Wash. Rev. Code § @ @, or  
 3 any similar state or local law, or otherwise, before doing so, they will notify counsel for the  
 4 producing entity in sufficient time to allow that entity a reasonable opportunity to object to, or to  
 5 take legal action to prevent such disclosure.

6       **16.** The inadvertant production of documents containing information protected by the  
 7 attorney-client privilege, work product doctrine, or other privileges recognized by law shall not  
 8 be deemed a waiver, in whole or in part, of a party's claim of privilege as to either the document  
 9 or information disclosed, or to related documents or information.

10       **17.** Nothing in this Order shall prevent an entity from using or disclosing its own  
 11 documents or other information.

12       **18.** Nothing in this Order shall affect the right of any person to seek further provisions  
 13 enhancing or limiting confidentiality as may be appropriate.

14       **19.** The provisions of this Order restricting the use and disclosure of Confidential  
 15 Information shall not apply to documents or other information which were, are, or become public  
 16 knowledge not in violaton of this Agreed Protective Order.

17       **20.** Notwithstanding anything to the contrary that may be set forth herein, the Court shall  
 18 retain the authority to modify this Order upon good cause shown.

19       **21.** This Order shall take effect immediately as between the signatories to this Order, and  
 20 shall apply only as between signatories to this Order.

21 Dated: August \_\_, 2009

ROBERT M. MCKENNA  
 JAMES K. PHARRIS

22  
 23 By: \_\_\_\_\_  
 24 JAMES K. PHARRIS

25 Counsel for Defendants Sam Reed,  
 26 Washington Secretary of State, and Brenda  
 27 Galarza, Public Records Officer for the  
 28 Washington Secretary of State

1 Dated: August \_\_, 2009

JAMES BOPP, JR.  
SARAH E. TROUPIS  
SCOTT F. BIENIEK  
STEPHEN PIDGEON

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5 By: \_\_\_\_\_  
SARAH E. TROUPIS

6 Counsel for Plaintiffs John Doe #1, John  
7 Doe #2, and Protect Marriage Washington  
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**CERTIFICATE OF SERVICE**

I, @@, am over the age of 18 years and not a party to the above-captioned action. My business address is 1 South Sixth Street; Terre Haute, Indiana 47807-3510.

On @@ @, 2009, I electronically filed the foregoing document described as @@ with the Clerk of Court using the CM/ECF system which will send notification of such filing to:

James K. Pharris  
jamesp@atg.wa.gov  
*Counsel for Defendants Sam Reed and Brenda Galarza*

I declare under the penalty of perjury under the laws of the State of Indiana that the above is true and correct. Executed this @@ day of @@, 2009.

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*Counsel for All Plaintiffs*